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FM AMEMBASSY BANGKOK

TO RUEHC/SECSTATE WASHDC PRIORITY 6168

INFO RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY

RUEHBY/AMEMBASSY CANBERRA PRIORITY 7002

RUEHUL/AMEMBASSY SEOUL PRIORITY 2988

RUEHKO/AMEMBASSY TOKYO PRIORITY 9135

RUEHCHI/AMCONSUL CHIANG MAI PRIORITY 3414

RUCPDOC/DEPT OF COMMERCE WASHINGTON DC PRIORITY

RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

UNCLAS BANGKOK 002071

SIPDIS

SENSITIVE

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STATE FOR EB AND EAP/MLS

E.O. 12958: N/A

TAGS: [ECON](#) [PREL](#) [PGOV](#) [EINV](#) [TH](#)

SUBJECT: CABINET SENDS INVESTMENT BILL TO LEGISLATURE

REF: A. BANGKOK 2008 (RETAILING IN THAILAND)

- [1B.](#) BANGKOK 883 (FOREIGN MISSIONS RESPOND TO THE FBA)
- [1C.](#) BANGKOK 581 (RESPONDING TO CHANGES IN THAI FBA)

11. (U) On April 10 the Thai cabinet approved the revised version of proposed amendments to the Foreign Business Act (FBA). The first version, approved by cabinet on January 9, was revised somewhat after review by the Council of State (RTG lawyers) and efforts by the Ministry of Commerce to incorporate a version of the FBA proposed by some members of the National Legislative Assembly (NLA). With this second cabinet approval, the bill now goes to the NLA for consideration.

12. (SBU) That the cabinet considered and approved the FBA bill today was a surprise, not least to ministers other than the Minister of Commerce. We were told by the Finance Minister's key advisor that her Minister (Chalungphob) spoke to the Commerce Minister (Krirk-Krai) the previous evening to ask if there was any possibility the FBA would be tabled at the following day's weekly cabinet session. He reportedly was assured that the bill was not ready. At the cabinet meeting, Krirk-Krai presented the new version of the bill, announced that it was subject to "emergency consideration" due to the importance of the legislation, and a vote was duly taken. Our Finance Ministry contact believes the "emergency" aspect of the bill was to get it through cabinet before the Prime Minister returned to work from his current indisposition. (He is in the hospital, officially for a "routine check-up. Septel provides more detail.)

13. (SBU) The Commerce Minister is selling the new version of the FBA as a "softer" version of the original. He is also reportedly saying that the new version takes into account comments made by members of the foreign business community at a meeting held on April 9 to discuss the FBA with members of the NLA and academics in front of members of the press. The outcome of the seminar was the foreigners saying the bill "was terrible and should be scrapped" and the NLA members responding that the bill was going through in any case and the foreigners should suggest ideas to "make the bill better" rather than just criticize. While a copy of the latest bill has not been made public, we understand that the new version has four key changes from the January 9 edition.

- Companies in sectors under lists 1 and 2 of the three lists of proscribed industries will have three years rather than two to sell down their shareholdings to below 50 percent voting rights and equity.

- Penalty for non-compliance increased from up to 3 years

imprisonment to up to 5 years.

- Definition of a "foreign company" is expanded to include not only majority equity ownership and majority foreign voting rights but also foreign management control.

- There are conflicting reports that companies may apply to a committee within the Ministry of Commerce to allow them to maintain their current share structure if the company can demonstrate the necessity of doing so and prove that the Thai stockholders are not acting as nominees.

¶4. (SBU) Comment: Efforts by the Prime Minister to exert control over some aspects of economic policy as evidenced by the recent knocking back of the proposed Retail Act (reftel) have produced mixed results, to the continued consternation of foreign investors. Given the continuing decline of the Thai economy because of a lack of confidence in the political and policy outlook, the rush to pass this bill - which has been particularly contentious and fraught - is remarkable. In the meantime, we will continue to work with like-minded embassies to lobby the NLA.

BOYCE